



Association of Western States Engineers
April 2007

Instream Flows in Nebraska

Susan France

Nebraska Department of Natural Resources



Law Passed in 1993





Only the

**Nebraska Game and
Parks Commission**

and

**Natural Resources
Districts**

can apply for an

Instream Flow Permit



**Studies
must be conducted
prior to filing
and must find
a critical need.**



Permits can be for
only the amount
of water necessary
for **recreation or**
fish and wildlife.



The Game & Parks Commission

or Natural Resources District

**must give notice and
have a public hearing
prior to filing
an application.**



Application must contain:

a. Stream reach

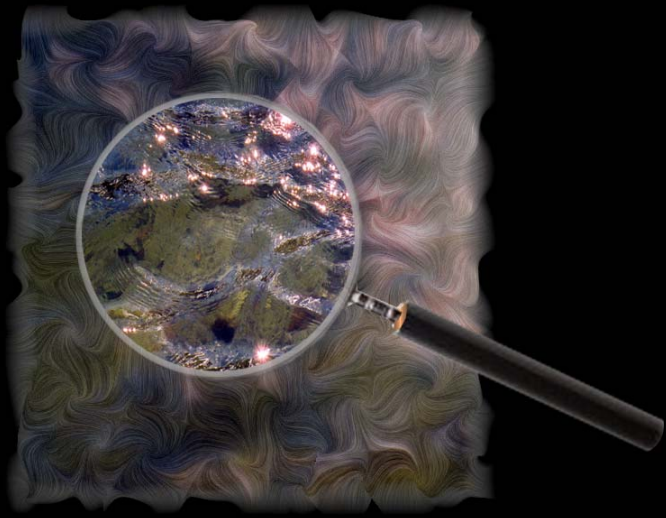
b. Time of year

c. Amount of water necessary to provide adequate instream flows

July 2000

STATE OF NEBRASKA
DEPARTMENT OF NATURAL RESOURCES
APPLICATION FOR A PERMIT TO APPROPRIATE WATER FOR INSTREAM FLOWS

INSTRUCTIONS	For Department Use Only												
<p>Complete Items 1 through 5 by typing the appropriate information and by placing an (X) in the appropriate box.</p> <p>The following information must accompany this form and is made a part of this application. Refer to Department Rules, Title 457, Chapter 18, for requirements A-F:</p> <p>A. Copy of any studies completed to quantify the instream flow.</p> <p>B. List of persons and their addresses who testified at public hearings held by the applicant.</p> <p>C. U.S. Geological Survey Topographic Quadrangle map(s) marked to show the location of the stream reach.</p> <p>D. An evaluation of the availability of unappropriated water.</p> <p>E. An evaluation of how the appropriation would affect senior appropriations.</p> <p>F. An evaluation of whether the proposed appropriation is in the public interest.</p>	<p>Filed in the office of the Department of Natural Resources at _____ a.m./p.m. on _____, 20____.</p> <p>Application No. _____</p> <p>Water Division _____</p> <p>Receipt No. _____ Amount _____</p>												
<p>1. Name of applicant: _____ Telephone Number (____) _____</p> <p>Address _____</p> <p>City _____ State _____ Zip Code _____</p>													
<p>2. Identify the stream _____</p>													
<p>3. A permit is sought for the purpose of providing flows for: <input type="checkbox"/> Fish & Wildlife <input type="checkbox"/> Recreation</p>													
<p>4. Describe below the quantity of water necessary to provide adequate instream flows, and the time of year when instream flows are most critical.</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 33%; text-align: center;">Beginning Month/Day</th> <th style="width: 33%; text-align: center;">Ending Month/Day</th> <th style="width: 33%; text-align: center;">Quantity cfs.</th> </tr> </thead> <tbody> <tr> <td style="height: 40px;"></td> <td></td> <td></td> </tr> <tr> <td style="height: 40px;"></td> <td></td> <td></td> </tr> <tr> <td style="height: 40px;"></td> <td></td> <td></td> </tr> </tbody> </table>		Beginning Month/Day	Ending Month/Day	Quantity cfs.									
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<p>5. I believe the information contained in this application is true, complete and accurate.</p> <p>Date _____ Signature and Title _____</p>													
<p><small>This form must be completed in full. An incomplete or defective application will be returned for correction. A non-refundable filing fee of \$10.00 (payable to the Department of Natural Resources) must accompany this application. Forward this application and fee to:</small></p> <p style="text-align: center;">State of Nebraska Department of Natural Resources 301 Centennial Mall South P.O. Box 94676 Lincoln, NE 68506</p>													



**Director shall
conduct studies
deemed necessary
to evaluate the
application.**



**Notice is required
and a public hearing
is required if objections
are received.**



Applications shall be approved if:

- a. There is unappropriated water available to provide the instream flow rate at least twenty percent of the time during the period requested.**
- b. The appropriation is necessary to maintain the existing recreational uses or needs of existing fish and wildlife species.**
- c. The appropriation will not interfere with any senior surface water appropriation.**

Applications shall be approved if:

continued

d. The rate and timing of the flow is the minimum necessary to maintain the existing recreational uses or needs of existing fish and wildlife species; and

e. The application is in the public interest.





Public interest includes:

a. The economic, social and environmental value of the instream use or uses, including, but not limited to recreation, fish and wildlife, induced recharge for municipal water systems, and water quality maintenance;

b. The economic, social and environmental value of reasonably foreseeable alternative out-of-stream uses of water that will be foregone or accorded junior status if the appropriation is granted.



If the director determines there is insufficient unappropriated natural flow available for an application, if the applicant consents, the department may conduct a study to determine whether the instream flow needs can be met through the use of stored water in new facilities.

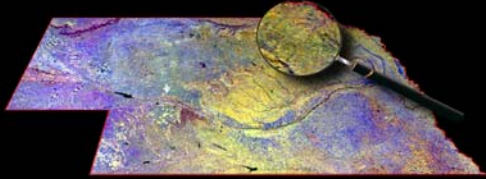


Instream flows are administered the same as other appropriations with **one exception**. Senior storage reservoirs **do not** have to pass water when we administer solely for instream flow.



Permits are reviewed every 15 years.

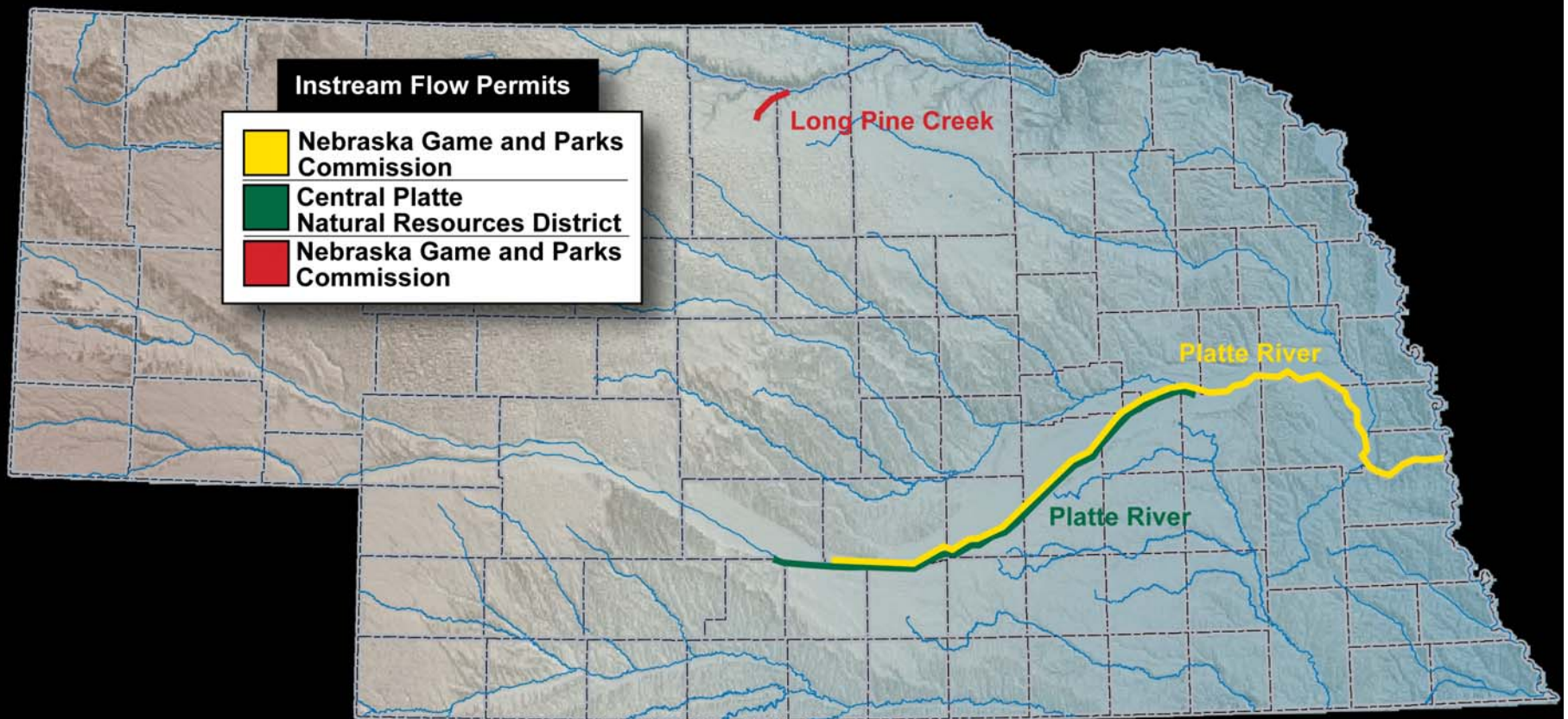
- a. DNR gives Notice.**
- b. Applicant has to file written documentation of continued use.**
- c. Hearing required if interested person files request for hearing.**
- d. There is a rebuttable presumption that the beneficial use is still in the public interest.**

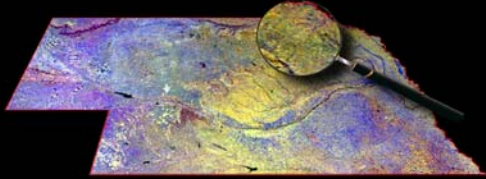


The Director can modify instream flow appropriations for:

- a. Induced recharge appropriations for public water suppliers.**
- b. Storage permits for flood and sediment control projects which will not result in a net consumption of water exceeding 200 af per annum.**

Three sets of instream flow permits exist





***The Director can modify
instream flow appropriations
for:*** *continued*



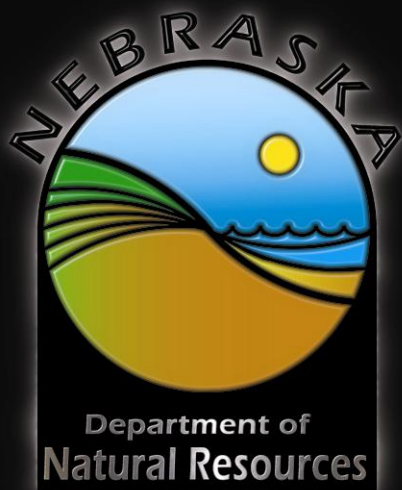
c. Applications for transfer permits associated with natural flow, storage use, power generation, or hydropower.



d. Applications for de minimis uses.



e. Applications for industrial or manufacturing de minimis consumptive uses.



Thank You

Susan France, Special Assistant to the Director

Nebraska Department of Natural Resources

